REMARKS

Claims 1-18 are currently pending in the application. No claim have been amended or cancelled in this response.

Claims 1-18 stand rejected under 35 U.S.C. §102(b) on the basis of Fujii et al. The rejection is respectfully traverse because the relied upon portions of Fujii do not teach each and every element of the instant claims.

Claims 1, 7, and 13 recite a method, apparatus, and computer program wherein the failure notification time indicates a time from when a failure notification message is transmitted by the failure detected network node until the each network node receives the failure notification message.

According to the instant claims, the failure notification time is calculated, and a first network node that is positioned in the current communication path on upper stream from the location of the network failure is selected out of the network nodes based on the failure notification time. Then, an alternative communication path that includes the first network node and a second network node positioned in the current communication path on down stream from the location of the network failure out of the network nodes is determined.

However, in a pre-plan type restoration system of Fujii et al., information about switching to alternate paths for the failure site is provided at each node before failure. In case of failure, the failure is detected at an adjacent node near the failure site due to interruption of a signal, etc. The failure site information is then sent from the node where failure has been detected to various nodes by means of flooding. Upon receiving the aforementioned message,

the node performs switching based on the pre-plan switching information that has already been provided to it (page 4, 2. Pre-plan type restoration system, 2.1 Abstract).

Furthermore, Results of Simulation of Fujii et al. (pages 10-12) teaches the parameters used for the simulation of the flooding completion time and the restoration completion time. For example, the message treatment time is set to 1 ms, and the transmission treatment time for each message is set to 1 ms.

Thus, contrary to the assertions in the office action, a Fjuii's teaching related to the reception and transmission treatment times, simply does not include teaching of the claimed failure notification time that indicates a time from when a failure notification message is transmitted by the failure detected network node until the each network node receives the failure notification message.

Moreover, the disclosure does not teach "calculating" the failure notification time, selecting a first network node positioned in the current communication path on upper stream from the location of the network failure "based on the failure notification time", and determining an alternative communication path that includes the first network node and a second network node positioned in the current communication path on down stream from the location of the network failure out of the network nodes. Rather, Fujii et al. merely teaches the message treatment time and the transmission treatment time for each message are set to 1 ms, and the message treatment time and the transmission treatment time is used for the simulation of the flooding completion time and the restoration completion time.

Accordingly, it is submitted that claims 1, 7, and 13 patentably distinguishes over the relied upon portions of Fujii et al. Claims 2-6 depending from claim 1 includes all of the

features of claim 1 plus additional features. Claims 8-12 depending from claim 7 includes all of the features of claim 7 plus additional features. Similarly, claims 14-18 depending from claim 13 includes all of the features of claim 13 plus additional features.

Accordingly, it is submitted that new claims 1-18 patentably distinguish over Fujii and are allowable.

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Conclusion

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In view of the remarks and amendments set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

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